



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2144

Introduced 2/14/2008, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

725 ILCS 5/112A-22	from Ch. 38, par. 112A-22
725 ILCS 120/8.5	
750 ILCS 60/222	from Ch. 40, par. 2312-22

Amends the Code of Criminal Procedure of 1963, the Rights of Crime Victims and Witnesses Act, and the Illinois Domestic Violence Act of 1986. Provides that every circuit court clerk shall be responsible for providing information to individuals petitioning for ex parte orders of protection regarding notification of service of these orders of protection. Provides that such notification to the petitioner is required if the petitioner has registered a telephone number with the State's crime victim and witness notification system. Provides that the petitioner shall be informed of his or her option to receive notification of service of an ex parte order of protection or summons on the respondent by the circuit court clerk and shall be provided information on how to receive notification of service of ex parte orders of protection or summons to court. Provides that the local law enforcement agency or any other government agency responsible for serving ex parte orders of protection or summons to court shall record the service of these orders of protection into a law enforcement database, or similar electronic record keeping system, at the time when service occurs. Provides that these provisions shall only apply to those circuit court clerks able to access the statewide crime victim and witness notification system. Effective January 1, 2009.

LRB095 18848 RLC 44976 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning orders of protection.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-22 as follows:

6 (725 ILCS 5/112A-22) (from Ch. 38, par. 112A-22)

7 Sec. 112A-22. Notice of orders.

8 (a) Entry and issuance. Upon issuance of any order of
9 protection, the clerk shall immediately, or on the next court
10 day if an emergency order is issued in accordance with
11 subsection (c) of Section 112A-17, (i) enter the order on the
12 record and file it in accordance with the circuit court
13 procedures and (ii) provide a file stamped copy of the order to
14 respondent, if present, and to petitioner.

15 (b) Filing with sheriff. The clerk of the issuing judge
16 shall, or the petitioner may, on the same day that an order of
17 protection is issued, file a copy of that order with the
18 sheriff or other law enforcement officials charged with
19 maintaining Department of State Police records or charged with
20 serving the order upon respondent. If the order was issued in
21 accordance with subsection (c) of Section 112A-17, the clerk
22 shall on the next court day, file a certified copy of the order
23 with the Sheriff or other law enforcement officials charged

1 with maintaining Department of State Police records.

2 (c) Service by sheriff. Unless respondent was present in
3 court when the order was issued, the sheriff, other law
4 enforcement official or special process server shall promptly
5 serve that order upon respondent and file proof of such
6 service, in the manner provided for service of process in civil
7 proceedings. Instead of serving the order upon the respondent,
8 however, the sheriff, other law enforcement official, or
9 special process server may serve the respondent with a short
10 form notification as provided in Section 112A-22.10. If process
11 has not yet been served upon the respondent, it shall be served
12 with the order or short form notification.

13 (c-5) If the person against whom the order of protection is
14 issued is arrested and the written order is issued in
15 accordance with subsection (c) of Section 112A-17 and received
16 by the custodial law enforcement agency before the respondent
17 or arrestee is released from custody, the custodial law
18 enforcement agent shall promptly serve the order upon the
19 respondent or arrestee before the respondent or arrestee is
20 released from custody. In no event shall detention of the
21 respondent or arrestee be extended for hearing on the petition
22 for order of protection or receipt of the order issued under
23 Section 112A-17 of this Code.

24 (d) Extensions, modifications and revocations. Any order
25 extending, modifying or revoking any order of protection shall
26 be promptly recorded, issued and served as provided in this

1 Section.

2 (e) Applicability of other law. This Section is subject to
3 the provisions of subsection (c-5) of Section 8.5 of the Rights
4 of Crime Victims and Witnesses Act.

5 (Source: P.A. 92-162, eff. 1-1-02.)

6 Section 10. The Rights of Crime Victims and Witnesses Act
7 is amended by changing Section 8.5 as follows:

8 (725 ILCS 120/8.5)

9 Sec. 8.5. Statewide victim and witness notification
10 system.

11 (a) The Attorney General may establish a crime victim and
12 witness notification system to assist public officials in
13 carrying out their duties to notify and inform crime victims
14 and witnesses under Section 4.5 of this Act as the Attorney
15 General specifies by rule. The system shall download necessary
16 information from participating officials into its computers,
17 where it shall be maintained, updated, and automatically
18 transmitted to victims and witnesses by telephone, computer, or
19 written notice.

20 (b) The Illinois Department of Corrections, the Department
21 of Juvenile Justice, the Department of Human Services, and the
22 Prisoner Review Board shall cooperate with the Attorney General
23 in the implementation of this Section and shall provide
24 information as necessary to the effective operation of the

1 system.

2 (c) State's attorneys, circuit court clerks, and local law
3 enforcement and correctional authorities may enter into
4 agreements with the Attorney General for participation in the
5 system. The Attorney General may provide those who elect to
6 participate with the equipment, software, or training
7 necessary to bring their offices into the system.

8 (c-5) Every circuit court clerk shall be responsible for
9 providing information to individuals petitioning for ex parte
10 orders of protection regarding notification of service of these
11 orders of protection. Such notification to the petitioner is
12 required if the petitioner has registered a telephone number
13 with the State's crime victim and witness notification system.
14 The petitioner shall be informed of his or her option to
15 receive notification of service of an ex parte order of
16 protection or summons on the respondent by the circuit court
17 clerk and shall be provided information on how to receive
18 notification of service of ex parte orders of protection or
19 summons to court. The local law enforcement agency or any other
20 government agency responsible for serving ex parte orders of
21 protection or summons to court shall record the service of
22 these orders of protection into a law enforcement database, or
23 similar electronic record keeping system, at the time when
24 service occurs. The provisions of this Section shall only apply
25 to those circuit court clerks able to access the statewide
26 crime victim and witness notification system.

1 (d) The provision of information to crime victims and
2 witnesses through the Attorney General's notification system
3 satisfies a given State or local official's corresponding
4 obligation under Section 4.5 to provide the information.

5 (e) The Attorney General may provide for telephonic,
6 electronic, or other public access to the database established
7 under this Section.

8 (f) The Attorney General shall adopt rules as necessary to
9 implement this Section. The rules shall include, but not be
10 limited to, provisions for the scope and operation of any
11 system the Attorney General may establish and procedures,
12 requirements, and standards for entering into agreements to
13 participate in the system and to receive equipment, software,
14 or training.

15 (g) There is established in the Office of the Attorney
16 General a Crime Victim and Witness Notification Advisory
17 Committee consisting of those victims advocates, sheriffs,
18 State's Attorneys, circuit court clerks, Illinois Department
19 of Corrections, the Department of Juvenile Justice, and
20 Prisoner Review Board employees that the Attorney General
21 chooses to appoint. The Attorney General shall designate one
22 member to chair the Committee.

23 (1) The Committee shall consult with and advise the
24 Attorney General as to the exercise of the Attorney
25 General's authority under this Section, including, but not
26 limited to:

1 (i) the design, scope, and operation of the
2 notification system;

3 (ii) the content of any rules adopted to implement
4 this Section;

5 (iii) the procurement of hardware, software, and
6 support for the system, including choice of supplier or
7 operator; and

8 (iv) the acceptance of agreements with and the
9 award of equipment, software, or training to officials
10 that seek to participate in the system.

11 (2) The Committee shall review the status and operation
12 of the system and report any findings and recommendations
13 for changes to the Attorney General and the General
14 Assembly by November 1 of each year.

15 (3) The members of the Committee shall receive no
16 compensation for their services as members of the
17 Committee, but may be reimbursed for their actual expenses
18 incurred in serving on the Committee.

19 (Source: P.A. 93-258, eff. 1-1-04; 94-696, eff. 6-1-06.)

20 Section 15. The Illinois Domestic Violence Act of 1986 is
21 amended by changing Section 222 as follows:

22 (750 ILCS 60/222) (from Ch. 40, par. 2312-22)

23 Sec. 222. Notice of orders.

24 (a) Entry and issuance. Upon issuance of any order of

1 protection, the clerk shall immediately, or on the next court
2 day if an emergency order is issued in accordance with
3 subsection (c) of Section 217, (i) enter the order on the
4 record and file it in accordance with the circuit court
5 procedures and (ii) provide a file stamped copy of the order to
6 respondent, if present, and to petitioner.

7 (b) Filing with sheriff. The clerk of the issuing judge
8 shall, or the petitioner may, on the same day that an order of
9 protection is issued, file a certified copy of that order with
10 the sheriff or other law enforcement officials charged with
11 maintaining Department of State Police records or charged with
12 serving the order upon respondent. If the order was issued in
13 accordance with subsection (c) of Section 217, the clerk shall
14 on the next court day, file a certified copy of the order with
15 the Sheriff or other law enforcement officials charged with
16 maintaining Department of State Police records.

17 (c) Service by sheriff. Unless respondent was present in
18 court when the order was issued, the sheriff, other law
19 enforcement official or special process server shall promptly
20 serve that order upon respondent and file proof of such
21 service, in the manner provided for service of process in civil
22 proceedings. Instead of serving the order upon the respondent,
23 however, the sheriff, other law enforcement official, or
24 special process server may serve the respondent with a short
25 form notification as provided in Section 222.10. If process has
26 not yet been served upon the respondent, it shall be served

1 with the order or short form notification. A single fee may be
2 charged for service of an order obtained in civil court, or for
3 service of such an order together with process, unless waived
4 or deferred under Section 210.

5 (c-5) If the person against whom the order of protection is
6 issued is arrested and the written order is issued in
7 accordance with subsection (c) of Section 217 and received by
8 the custodial law enforcement agency before the respondent or
9 arrestee is released from custody, the custodial law
10 enforcement agent shall promptly serve the order upon the
11 respondent or arrestee before the respondent or arrestee is
12 released from custody. In no event shall detention of the
13 respondent or arrestee be extended for hearing on the petition
14 for order of protection or receipt of the order issued under
15 Section 217 of this Act.

16 (d) Extensions, modifications and revocations. Any order
17 extending, modifying or revoking any order of protection shall
18 be promptly recorded, issued and served as provided in this
19 Section.

20 (e) Notice to schools. Upon the request of the petitioner,
21 within 24 hours of the issuance of an order of protection, the
22 clerk of the issuing judge shall send written notice of the
23 order of protection along with a certified copy of the order of
24 protection to the day-care facility, pre-school or
25 pre-kindergarten, or private school or the principal office of
26 the public school district or any college or university in

1 which any child who is a protected person under the order of
2 protection or any child of the petitioner is enrolled. If the
3 child transfers enrollment to another day-care facility,
4 pre-school, pre-kindergarten, private school, public school,
5 college, or university, the petitioner may, within 24 hours of
6 the transfer, send to the clerk written notice of the transfer,
7 including the name and address of the institution to which the
8 child is transferring. Within 24 hours of receipt of notice
9 from the petitioner that a child is transferring to another
10 day-care facility, pre-school, pre-kindergarten, private
11 school, public school, college, or university, the clerk shall
12 send written notice of the order of protection, along with a
13 certified copy of the order, to the institution to which the
14 child is transferring.

15 (f) Disclosure by schools. After receiving a certified copy
16 of an order of protection that prohibits a respondent's access
17 to records, neither a day-care facility, pre-school,
18 pre-kindergarten, public or private school, college, or
19 university nor its employees shall allow a respondent access to
20 a protected child's records or release information in those
21 records to the respondent. The school shall file the copy of
22 the order of protection in the records of a child who is a
23 protected person under the order of protection. When a child
24 who is a protected person under the order of protection
25 transfers to another day-care facility, pre-school,
26 pre-kindergarten, public or private school, college, or

1 university, the institution from which the child is
2 transferring may, at the request of the petitioner, provide,
3 within 24 hours of the transfer, written notice of the order of
4 protection, along with a certified copy of the order, to the
5 institution to which the child is transferring.

6 (g) Applicability of other law. This Section is subject to
7 the provisions of subsection (c-5) of Section 8.5 of the Rights
8 of Crime Victims and Witnesses Act.

9 (Source: P.A. 92-90, eff. 7-18-01; 92-162, eff. 1-1-02; 92-651,
10 eff. 7-11-02.)

11 Section 99. Effective date. This Act takes effect January
12 1, 2009.